

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NUMBER 5:06CR22**

UNITED STATES OF AMERICA,)
 Plaintiff,)
)
 v.)
)
THOMAS JOSEPH ISBELL,)
)
 Defendant.)

ORDER

THIS MATTER is before the Court upon the Defendant's Motion for Disclosure of Jury Records, filed July 10, 2007. [Doc. # 428]; and the Court's Order on Defendant's Motion, granted in-part, July 13, 2007. [Doc. #435].

On July 13, 2007, the Court, pursuant to 28 U.S.C. § 1867(f), granted Defendant's motion for disclosure of the master jury list and grand jury list pertaining to his case. Defendant's motion was granted in order to allow Defendant to raise a potential challenge to the racial composition of the grand or petit juries in his case under 28 U.S.C. § 1867(a). Defendant's trial was set for the 16 July 2007 criminal term in this Court.

On July 17, 2007, the Court orally granted Defendant's Motion to Continue based on Defendant's contention that he was prejudiced due to the Government's revelation three days before trial that eight or more new witnesses were prepared to testify against him. Defendant also argued for a continuance in order to allow him additional time to analyze the information provided to him pursuant to the Court's July 13, 2007 order in view of his potential 28 U.S.C. § 1867(a) motion. Such argument was moot due to the Court's grant of continuance on Defendant's contention of prejudice. However, in light of the Court's continuance, it recognizes

that Defendant now possesses the necessary time to analyze the jury pool information provided to him and may yet make a challenge under 28 U.S.C. § 1867(a).

Therefore, should Defendant anticipate bringing a motion under 28 U.S.C. § 1867(a), the Defendant shall meet and confer with the Government in order to suggest to the Court a timely briefing schedule and, if needed, a reasonable date for an evidentiary hearing to facilitate the prompt resolution of this matter. Any potential motion under 28 U.S.C. § 1867(a) shall be resolved no later than two weeks before the scheduled trial term for this case. If the parties cannot agree on a briefing schedule and/or date for evidentiary hearing, the Court will provide one at its own discretion.

IT IS, THEREFORE ORDERED that Defendant, **within twenty (20) days of this order**, shall:

- (1) Alert the Court as to its intentions regarding a potential 28 U.S.C. § 1867(a) motion;
- (2) If Defendant intends to make such motion, certify that it has met and conferred with the Government on a proposed briefing schedule and evidentiary hearing, and propose such briefing schedule and hearing date, or, if the parties in good faith cannot agree to a proposed briefing schedule and/or evidentiary hearing, so note.

Signed: July 20, 2007



Richard L. Voorhees
United States District Judge

